

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

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In re:	) <b>Case No. 03-37876 GFK</b>
<b>Tracy R. Cunningham</b>	)
	) NOTICE OF HEARING AND
	) MOTION FOR POST
	) MODIFICATION
	) OF CHAPTER 13 PLAN
Debtor(s)	)

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To: Jasmine Z. Keller, Standing Chapter 13 Trustee; the  
U.S. Trustee; and other parties specified by Local  
Rules 3015-2(b) and 3019-2.

1. Debtor(s) in the above captioned case hereby move  
the Court for an Order approving the Modified Chapter 13  
Plan filed herewith and dated **September 15, 2004**, and gives  
Notice of Hearing within.

2. The Court will hold a hearing on this motion on  
**October 28, 2004 at 10:30 A.M.**, in U.S. Bankruptcy Court,  
Courtroom 228B, 316 North Robert Street, St. Louis, MN.

Any response to this motion must be filed and  
delivered not later than **October 25, 2004, 10:30 A.M.**, which  
is three days before the time set for the hearing (excluding  
Saturdays, Sundays, and Holidays) or filed and served by mail  
not later than **October 19, 2004**, which is seven days before  
the time set for the hearing (excluding Saturdays, Sundays  
and Holidays). UNLESS A RESPONSE OPPOSING THE MOTION IS  
TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A  
HEARING.

3. This case was commenced by the debtor(s) on **November 19, 2003** and is currently pending before this Court. The Court has confirmed a plan. This motion is brought under 11 U.S.C. 1329 and Local Rule 3019-2 seeking modification of the plan. The proposed modified plan complies with Local Rule 3015-1.

4. The lists, schedules and plan originally filed by the debtor(s) provided for substantially all of the debtors' disposable income to be applied to payments under the plan. The debtor has had her income reduced by approximately \$200.00 per month due to a reduction in work hours. This modification accommodates the reduction in income and increases the step-up in payment starting in month 25 of the plan that will provide a greater payment to the unsecured creditors than provided in the original plan.

5. By reason of the foregoing, debtor(s) hereby requests that the Court enter an Order approving the modified plan filed herewith.

Dated: 09/15/2004

Respectfully submitted,

/e/ Robert J. Everhart  
Robert J. Everhart #180671  
Attorney at Law  
P.O. Box 120534  
New Brighton, MN 55112  
651-636-9212

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

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In re:	)	<b>Case No. 03-37876 GFK</b>
<b>Tracy R. Cunningham</b>	)	Chapter 13
	)	
	)	MEMORANDUM SUPPORTING
	)	MOTION FOR
	)	POST MODIFICATION
	)	OF CHAPTER 13 PLAN
Debtor(s)	)	

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1. Debtor(s) hereby submit the following memorandum in support of the foregoing Motion to Modify Chapter 13 Plan.

2. Title 11 U.S.C. Subdivision 1329 provides that a plan may be modified after confirmation so long as the modified plan meets all the requirements of Sections 1322(a), 1322(b), 1323(c), and 1325; to wit, so long as the modified plan would have been confirmable had it been filed as the original plan. Section 1329 also provides that a modified plan may be adjusted to meet the requirements for a class of creditors, as does the modified plan filed herewith.

3. Debtor(s) represent that the specified in the modified plan satisfy all the foregoing requirements, and that such modification is necessary because of the debtor's change of circumstances.

4. Accordingly, the Court should enter an order approving the modified plan filed herewith.

Dated: 09/15/2004

Respectfully submitted,

/e/ Robert J. Everhart  
Robert J. Everhart #180671  
P.O. Box 120534  
New Brighton, MN 55112  
651-636-9212

#### VERIFICATION

I (we), Tracy R. Cunningham, the debtor or joint debtor(s) herein, declare under penalty of perjury that the foregoing Motion and Memorandum are correct to the best of my knowledge.

Date: 09/15/2004

Signed: /e/Tracy R. Cunningham  
Debtor

Date: 09/15/2004

Signed: /e/  
Joint Debtor (if any)

In RE:  
Tracy R. Cunningham

U.S. Bankruptcy Court  
District of Minnesota

Unsworn Declaration  
Proof of Service

Debtor(s)

Mari M. Scotch, employed by Robert J. Everhart attorney(s) licensed to practice law in this court, with office address of P. O. Box 120534, New Brighton, Minnesota 55112, declares that on September 28, 2004, I served the annexed:

Notice of Hearing and Motion for Post Confirmation Modification of Chapter 13 Plan,  
Memorandum Supporting Motion and Modified Chapter 13 Plan

upon each of the entities named below by mailing to each of them a copy thereof by enclosing same in an envelope with first class mail postage prepaid and depositing same in the post office at New Brighton, Minnesota addressed to each of them as follows:

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U.S. Bankruptcy Court  
(Electronic Filed Service)

Jasmine Z. Keller  
Chapter 13 Trustee  
12 South 6<sup>th</sup> Street Ste 310  
Minneapolis, MN 55402

Office of the U. S. Trustee  
1015 US Courthouse  
300 South 4<sup>th</sup> Street  
Minneapolis, MN 55415

Tracy R. Cunningham  
1318 Lafond Avenue  
St. Paul, MN 55104

Americredit  
Acct: 416487791  
PO Box 183853  
Arlington, TX 76096

\*\*\*SEE ATTACHED MATRIX\*\*\*

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And I declare, under penalty of perjury, that the foregoing is true and correct.

Executed: 09/28/2004

Signed: 

ACCENT SERVICE COMPANY  
7171 MERCY ROAD SUITE 150  
OMAHA NE 68106

ALGONA EYE CLINIC  
220 NORTH DODGE STREET  
ALGONA IA 50511

ALGONA MUNICIPAL UTILITIES  
104 WEST CALL STREET  
PO BOX 10  
ALGONA IA 50511

ALLIED INTERSTATE  
PO BOX 361374  
COLUMBUS OH 43236

AMERICREDIT  
801 CHERRY STREET  
SUITE 3900  
FORT WORTH TX 76102

ASPEN MEDICAL GROUP  
1021 BANDANA BLVD  
SUITE 200  
ST PAUL MN 55108

ASPEN MEDICAL GROUP  
NW 9460  
PO BOX 1450  
MINNEAPOLIS MN 55485

BALOGH BECKER LTD  
4150 OLSON MEMORIAL HIGHWAY  
SUITE 200  
MINNEAPOLIS MN 55422

BURLINGTON  
1150 CUSHING CIRCLE  
ST PAUL MN 55108

CAPITAL ONE  
VISA MASTERCARD  
PO BOX 26030  
RICHMOND VA 23276

CAPITAL ONE  
VISA MASTERCARD  
PO BOX 60000  
SEATTLE WA 98190

CHALET DENTAL CARE  
1651 NORTH DALE STREET  
ST PAUL MN 55117

FASHION BUG  
PO BOX 84073  
COLUMBUS GA 31908

FASHION BUG  
PO BOX 856021  
LOUISVILLE KY 40285-6021

FIRST PREMIER BANK  
MASTERCARD VISA  
PO BOX 5519  
SIOUX FALLS SD 57117-5519

IRS CHAPTER 13  
STOP 5700  
316 N ROBERT STREET  
ST PAUL MN 55101

MARK JENSEN DDS  
208 EAST CALL STREET  
ALGONA IA 50511

KOSSUTH REGIONAL HEALTH CENTER  
1519 SOUTH PHILLIPS  
ALGONA IA 50511

MID AMERICAN ENERGY  
PO BOX 8020  
DAVENPORT IA 52808-8020

MIDWEST ACCOUNT SERVICE  
110 EAST WALNUT STREET  
PO BOX 3564  
MANKATO MN 56002

MINNESOTA DEPT OF REVENUE  
COLLECTION ENFORCEMENT BKY  
PO BOX 64447 LOCATION 511  
ST PAUL MN 55164

QWEST  
PO BOX 1301  
MINNEAPOLIS MN 55483

RICHARD L MUSKE ATTORNEY  
6 WEST 7TH STREET  
STE 700  
ST PAUL MN 55102

RISK MANAGEMENT ALTERNATIVES  
4360 NORTHEAST EXPRESSWAY  
MAIL DROP 52G  
ATLANTA GA 30340

WASTE MANAGEMENT  
1621 HIGHWAY 18 EAST  
ALGONA IA 50511

WATER CONNECTION  
117 NORTH HALL STREET  
ALGONA IA 50511



WELLS FARGO FINANCIAL  
1460 NORTHWEST VIVION ROAD  
PO BOX 28724  
KANSAS CITY MO 64118

XCEL ENERGY  
PO BOX 9477  
MINNEAPOLIS MN 55484-9477

XCEL ENERGY  
ATTN KATHY GERATHY  
1518 CHESTNUT STREET  
MINNEAPOLIS MN 55403

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

In re: Tracy R. Cunningham

Debtor(s)

SIGNATURE DECLARATION

Re: *Electronic Filing*

Case No. 03-37876 GFK

- ☐ PETITION, SCHEDULES & STATEMENTS  
☐ CHAPTER 13 PLAN  
☐ AMENDMENT TO PETITION, SCHEDULES & STATEMENTS  
☒ MODIFIED CHAPTER 13 PLAN  
☐ SCHEDULES & STATEMENTS ACCOMPANYING VERIFIED CONVERSION  
☐ OTHER \_\_\_\_\_


I (We), the undersigned debtor(s) or authorized representative of the debtor, **make the following declarations under penalty of perjury:**

- The information I have given my attorney and provided in the electronically filed petition, statements, schedules, amendments, and /or chapter 13 plan, as indicated above, is true and correct.
- The information provided in the "Debtor Information Pages" submitted as a part of the electronic commencement of the above-referenced case is true and correct; **[individual debtors only]**. If no **social security number** is included in the "Debtor Information Pages" submitted as a part of the electronic commencement of the above-referenced case, it is because I do not have a social security number.
- I consent to my attorney electronically filing with the United States Bankruptcy Court my petition, statements and schedules, amendments, and/or chapter 13 plan, as indicated above, together with a scanned image of this Signature Declaration and the completed "Debtor Information Pages," if applicable. I understand that a scanned image of this declaration shall be electronically filed **no later than five days** after the above named documents have been electronically submitted. If an amendment, **no later than the next business day** following the date of service of the amendment. I understand that failure to file the signed original of this Declaration will provide cause for my case to be dismissed pursuant to 11 U.S.C. § 707 (a)(3) without further notice.

☐ **(Individual debtors only)** debts are primarily consumer debts and has chosen to file under chapter 7) I am aware that I may proceed under chapter 7, 11, 12 or 13 of title 11, United States Code, understand the relief available under each such chapter, and choose to proceed under chapter 7. I request relief in accordance with the chapter of title 11, United States Code, specified in this petition.

☐ **[Corporate and Partnership debtors only]** I have been authorized to file this petition on behalf of the debtor.

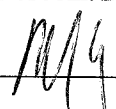
Date: 09/15/2004

X   
Signature of Debtor

X \_\_\_\_\_  
Signature of Debtor or Authorized Individual

X \_\_\_\_\_  
Signature of Joint Debtor

X \_\_\_\_\_  
Printed name of Debtor or Authorized Individual

X   
Signature of Attorney for Debtor(s)

Robert J. Everhart #180671  
Everhart Law Office, Ltd.  
P.O. Box 120534  
New Brighton, MN 55112  
651-636-9212